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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/533,978

05/05/2005

Keith Robert Broerman

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9599

24498

7590

05/22/2008

Joseph J. Laks

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EXAMINER

TRAN, QUOC DUC

ART UNIT

PAPER NUMBER

2614

MAIL DATE

DELIVERY MODE

05/22/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/533,978	Applicant(s) BROERMAN ET AL.	
	Examiner Quoc D. Tran	Art Unit 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-8 and 11-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Cho (2002/0080930).

Consider claims 1 and 11, Cho teaches apparatus and method for use in a communication network adapted to have a telephone connected thereto comprising: communication unit for connecting to a service provider provisioning server in a normal mode when the media terminal is in a provisioned (*i.e., in service*) state (see Fig. 1); provisioning failure detector for detecting when the media terminal adaptor has a non-provisional (*i.e., failure or no service*) status (see paragraphs 0018-0019); and provisioning error message generator/player for generating and playing a diagnostic message through said telephone indicative of the detected non-provisioned status, when said telephone is taken off-hook (see paragraphs 0062; 0067; 0074; it should be noted that when the connection between the subscriber is “attempted” implies that the telephone is taken off-hook).

Consider claims 2-3 and 12-13, Cho teaches the claimed features (see paragraphs 0046, 0067-0079).

Consider claims 4-5 and 14, Cho did not specifically suggest an off-hook detector for detecting when said telephone is taken off hook. However, it is an inherent feature in telecommunications to detect when the user is attempting to initiate a call.

Consider claims 6-7 and 15-16, Cho teaches the claimed features (see paragraphs 0072, 0079).

Consider claim 8, Cho did not specifically disclosed wherein when operating in said normal mode, if said telephone is taken off-hook, dial tone is sent to said telephone. However, it is inherent to provide dial tone when the telephone is taken off-hook in normal operating condition.

Consider claim 17, Cho teaches the claimed feature (see paragraph 0068).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9-10 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cho (2002/0080930) in view of Miyauchi et al (EP 1235416 A1).

Consider claims 9-10 and 18-19, Cho did not suggest of provisioning error resolver for determining a resolution to the detected non-provisioned status wherein said diagnostic message

is a function of said resolution and wherein electronic diagnostic and status information module adapted to be accessed by said telephone. However, Miyauchi et al suggested such (see paragraphs 0348). Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to incorporate the teaching of Miyauchi et al into view of Cho in order to assist the user in correcting the associated problem.

Consider claim 20, Cho did not specifically disclosed of determining said media terminal is provisioned and sending a dial tone to said telephone when the telephone is taken off-hook. However, it is inherent to provide dial tone when the telephone is taken off-hook in normal operating condition.

Response to Arguments

5. Applicant's arguments filed 3/19/2008 have been fully considered but they are not persuasive.

Regarding applicant argument that Cho failed to teach of “playing an appropriate diagnostic audio message (voice and/or tone sequence) when the user takes the telephone off-hook”, since “Cho is generated in real-time during an actual call session (after the call between two terminal units)”. Accordingly, the examiner respectfully disagrees with applicant argument.

Cho disclosure is directed to an Internet telephone gateway (i.e., an IP telephone adapter, modem, router, etc.) that generates alarm when failure occurs in the PSTN or IP network or call failure. Alarm message or tone or announcement is provides to from the Internet telephone gateway to the subscriber terminal unit **when the call connection is attempted** or during the connection of the call. Thus, it is clear that Cho system capable of provides diagnostic message to the user terminal unit **during call connection attempt** and also **during an established call**

between two terminal units. Thus, the phase **“call connection between the subscriber terminal units is attempted”** implies an initiating of a call. Thus, indicated that one of the users of the terminal unit must take the terminal unit off-hook in order to initiate a call attempt. Therefore, Cho teaching of providing alarm message to the user terminal unit when the call connection between the subscriber terminal units is attempted met the claimed feature of “playing an appropriate diagnostic audio message (voice and/or tone sequence) when the user takes the telephone off-hook” as broadly claimed.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any response to this action should be mailed to:

Application/Control Number:
10/533,978
Art Unit: 2614

Page 6

Mail Stop ____ (explanation, e.g., Amendment or After-final, etc.)
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Facsimile responses should be faxed to:

(571) 273-8300

Hand-delivered responses should be brought to:
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Quoc Tran** whose telephone number is **(571) 272-7511**. The examiner can normally be reached on Monday-Friday from 8:00 to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Curtis Kuntz**, can be reached on **(571) 272-7499**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Technology Center 2600** whose telephone number is **(571) 272-2600**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Quoc D Tran/
Primary Examiner, Art Unit 2614
May 20, 2008